



Application no. 10/037,577

2824

January 19, 2004

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Commissioner for Patents  
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Alexandria, VA 22313-1450

Attn: Art Unit 2824 - Examiner Christian Wilson

FROM: George O. Saile, Reg. No. 19,572  
28 Davis Avenue  
Poughkeepsie, N.Y. 12603

SUBJECT: Serial #: 10/037,577  
File Date: Jan. 4, 2002  
Inventor: Chia-Ta Hsieh  
Examiner: Christian Wilson  
Art Unit: 2824  
Title: A Split-Gate Flash with Source/Drain Multi-Sharing

#### RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the Restriction Requirement in the Office Action dated Dec. 19, 2003. In that office action, restriction was required to one of the following Inventions under

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents P.O. Box 1450, Alexandria, VA 22313-1450 on Jan. 20, 2004.

Signature   
Stephen B. Ackerman, Reg. No. 37,761

Date: Jan. 20, 2004

35 U.S.C. 121:

The inventions stated are:

I - Claims 1-12, drawn to a method of semiconductor device, classified in class 257, subclass 314, and

II - Claims 13-22, drawn to a method of making a semiconductor device, classified in class 438, subclass 257, and

III - Claims 23-28, drawn to a method of using a semiconductor device, classified in class 365, subclass 185.29.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 13-22, drawn to a process classified in Class 438, subclass 257. This election is made with traverse of the requirement under 37 C.F.R. 1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction in the Office Action.

The Examiner gives the reasons for the distinctness between Inventions I and II as (1) that the process as claimed can be used to make other and materially different

product, or (2) the product as claimed can be made by another and materially different process (M.P.E.P. 806.05(f)). However, upon reading the process Claims against the product Claims one can readily see that the process Claims are directed to a method of forming "a multi-bit flash cell", and that the product claims are directed to "a multi-bit split-gate flash cell", and that it is necessary to obtain claims in both the process and product claim language. The process claims necessarily use the product and vice versa. The field of search must necessarily cover both the process class/subclass 438/257 and product class/subclass 257/314, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and II are clearly and necessarily co-extensive. The Examiner's suggestion that "the device of Group I can be made by a materially different process such as using a material other than polysilicon" is speculative and has nothing to do with the Claims as presented in this patent application.

The Examiner gives the reasons for the distinctness between Inventions I and III as (1) that the process for using the product as claimed can be practiced with another and materially different product, or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. 806.05(h)). However, upon reading the process-of-use Claims against the product Claims one can readily see that the process-of-use Claims are directed to a programming method for a multi-bit split-gate flash cell, and that the product claims are directed to "a multi-bit split-gate flash cell", and that it is necessary to obtain claims in both the process-of-use and product claim language. The process-of-use claims necessarily use the product and vice versa. The field of search

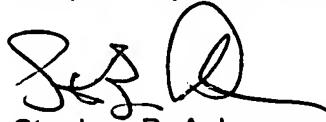
must necessarily cover both the process-of-use class/subclass 365/185.29 and product class/subclass 257/314, in addition to other related classes and subclasses, to provide a complete and adequate search. The fields of search for Groups I and III are clearly and necessarily co-extensive. The Examiner's suggestion that "the process Group III can be used with a materially different process such as an EEPROM that is not have a split gate configuration" is speculative and has nothing to do with the Claims as presented in this patent application.

Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of second and third patent applications upon the applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement, and allowance of the present Patent Application, is respectfully requested.

It is requested that should there be any problems with this response, please call the undersigned Attorney at (845) 452-5863.

Respectfully submitted,



Stephen B. Ackerman, Reg. No. 37,761